



U.S. Department of Justice

*United States Attorney
Eastern District of New York*

*271 Cadman Plaza East
Brooklyn, New York 11201*

August 18, 2021

By ECF

Honorable William F. Kuntz, II
United States District Judge
Eastern District of New York
225 Cadman Plaza East
Brooklyn, New York 11201

Re: *Dolores Alberto v. United States of America,*
Civil Action No. 17-CV-5142 (Kuntz, J.) (Pollak, Ch. M.J.)

Dear Judge Kuntz:

This Office represents Defendant United States of America in the above-referenced action brought by Plaintiff Dolores Alberto pursuant to the Federal Tort Claims Act ("FTCA"), 28 U.S.C. §§ 1346(b), 2401(b), 2671, *et seq.* By way of background, this case arises from alleged medical malpractice in connection with a hysterectomy procedure performed at NYU Lutheran Medical Center by Dr. Ernesto Rodriguez-Dumont, a deemed federal employee. The undersigned Assistant United States Attorneys write to respectfully request a brief adjournment of the bench trial in this matter, currently scheduled to begin on November 29, 2021, due to the unavailability of the Government's expert witness. Plaintiff consents to this request. This is the United States' first request for an adjournment of the trial in this case.

Trial initially was scheduled to commence on June 28, 2021. Dkt. No. 41. On April 27, 2021, Plaintiff requested an adjournment of the trial due to the unavailability of her expert witness Dr. Oz Harmanli. Dkt. No. 47. The Court granted that request on April 29 and adjourned the trial in this matter to November 29, 2021. Dkt. No. 48. This adjournment is required because the Government's expert witness in the field of Obstetrics & Gynecology, Dr. Martin Gubernick, just recently advised that he has an irreconcilable conflict for the week of November 29. Because Dr. Gubernick will be serving as the United States' primary expert in support of its defense that Dr. Rodriguez-Dumont met the applicable standard of care, the Government would be severely prejudiced if the trial is held at a time when he is not available to attend.

